

Philip H. Gottfried  
(*pgottfried@arelaw.com*)  
Marc J. Jason  
(*mjason@arelaw.com*)  
Holly Pekowsky  
(*hpekowsky@arelaw.com*)  
Amster, Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, New York 10016  
(212) 336-8000  
Attorneys for Plaintiff

United States District Court  
Southern District of New York

---

KLAUBER BROTHERS, INC.,

Plaintiff,

v.

RUSSELL-NEWMAN, INC. and  
THE BON-TON STORES, INC.,

Defendants.

---

11 Civ. 4985 (PGG)

### NOTICE OF APPEAL

Notice is hereby given that Plaintiff in the above-named case, hereby appeals to the United States Court of Appeals for the Second Circuit from the Memorandum Opinion & Order (Dkt. No. 23) entered in this action on the 26<sup>th</sup> day of March, 2013, granting the Motion to Dismiss by Defendant The Bon-Ton Stores, Inc.

Dated: April 24, 2013  
New York, NY

/s/Philip H. Gottfried  
Amster, Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, NY 10016

Attorneys for Plaintiff,  
Klauber Brothers, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of the foregoing to be served by electronic mail this  
24th day of April, 2013 on the following pursuant to the parties' agreement:

Vanessa C. Hew  
Suzan Jo  
R. Terry Parker  
Duane Morris LLP  
1540 Broadway  
New York, NY 10036  
*vhew@duanemorris.com*  
*sjo@duanemorris.com*  
*tparker@duanemorris.com*

AMSTER, ROTHSTEIN & EBENSTEIN LLP

/s/Wanda K. Walker

Wanda K. Walker